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REMARKS

Reconsideration of the first Office action issued in connection with the above-identified patent application is requested in view of the foregoing amendments and the following remarks. Prior to entry of the above amendments, claims 1-39 were pending, with claims 2-4, 7-18, 20-21, 25-27 and 29-32 indicated to be allowable and the remaining claims rejected as being anticipated by U.S. Patent No. 5,859,509 to Bienz. By the above amendments, claims 2-5 and 28 are cancelled without prejudice, claims 1, 29, 33 and 36 are amended, and new claims 40-62 are added.

As an initial matter, Applicants have rewritten many of the allowable claims in independent form. In these rewritten claims that expressly are directed to the rate or timing of the speed control, Applicants have amended the incorporated language from the original independent claims accordingly. Applicants submit that it is still within the scope of these rewritten independent claims to regulate both of the timing and the rate, although the rewritten independent claims are expressly directed to one or the other. Applicants recognize that this presentation of the allowable claims in independent form has increased the total number of pending claims, but Applicants believe it will facilitate formal allowance of these claims and easier consideration of the remaining claims. Applicants thank the Examiner in advance for considering the amended claims.

Allowable claim 2 has been rewritten in independent form as new claim 40 and therefore should be in a condition for formal allowance. New claims 41-50 depend from claim 40 and therefore should be allowed when claim 40 is formally allowed. New claims 41-42 correspond to allowable claims 2-3. New claims 44-45 correspond to allowable claims 20-21.

Allowable claim 10 has been rewritten in independent form as new claim 51 and therefore should be in a condition for formal allowance. New claims 52-62 depend from claim 51 and therefore should be allowed when claim 51 is allowed. New claims 52-59 correspond to allowable claims 11-18, and new claims 61-62 correspond to allowable claims 20-21.

Turning now to the rejections contained in the first Office action, claims 1, 5-6, 19, 22-24, 28 and 33-39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,859,509 to Bienz (one of the Applicants of the present application). Applicants agree with the Examiner that Bienz discloses a battery assembly-powered children's ride-on vehicle that is designed to be operated by a child and which includes at least one user input device that is positioned for actuation by a child sitting on the seat. Applicants further agree with the Examiner that Bienz discloses a children's ride-on vehicle that includes a speed controller. However, Applicants respectfully traverse and request reconsideration of the rejections because Bienz does not disclose or suggest the electronic speed controller (or ride-on vehicle incorporating the same) recited in the claims of the present application.

Applicants submit that the Examiner recognizes that Bienz fails to disclose or suggest any speed controller that selectively delays the transmission of the selected rotational input, as the Examiner indicated that claim 2 is allowable. More particularly, original claim 1 recited that the electronic speed controller was adapted to regulate at least one of the timing and the rate at which the selected rotational input is transmitted to the driven wheel assembly. Original claims 2 and 5 respectively depended from original claim 1 and recited that the electronic speed controller is adapted to regulate the timing (claim 2) and the rate (claim 5) of this transmission of the selected rotational input. Original claim 2 was indicated to be allowable, and pursuant to the above amendments has been rewritten in independent form as new claim 41. Original claim 5 stands rejected as being anticipated by Bienz, and pursuant to the above amendments has been incorporated into claim 1. Accordingly, this discussion of Bienz will focus on original claim 5 (rate of transmission of the selected rotational input), which now corresponds to amended claim 1.

As amended, claim 1 recites (amongst other structure) a battery-powered children's ride-on vehicle with at least one user input device and an electronic speed controller. The at least one user input device is positioned for actuation by a child sitting on the vehicle's seat and adapted to receive a user input selecting a selected rotational input, and the electronic speed controller is adapted to regulate at least the rate at which the selected rotational input is transmitted to

the driven wheel assembly. Applicants submit that Bienz fails to disclose or suggest this structure.

Instead of the speed controller recited in amended claim 1, Bienz is directed to an electronic speed controller that selectively regulates the magnitude of the maximum speed of the vehicle responsive to a configuration that is selected prior to operation of the vehicle. For example, Figs. 3a-3c of Bienz disclose the high, medium and low speed configurations that are possible using Bienz's speed controller. As these figures demonstrate, the speed controller of Bienz selectively configures the battery assembly and motors of the vehicle between parallel and series configurations to control the magnitude of the voltage available to the motors. In Fig. 3c, the medium speed configuration is shown including a resistor and diode that provide a fixed voltage drop from the high speed configuration of Fig. 3a. Therefore, Bienz is directed to limiting the magnitude of the maximum voltage to the motors, not the timing or rate at which a selected rotational input is transmitted to the ride-on's driven wheel assembly. In fact, Bienz is completely silent as to the rate (or timing) of the application of the rotational input to the driven wheel assembly, and instead appears to only disclose configurations in which the full selected voltage is applied to the motors, and in turn fully supplied to the driven wheel assembly. For example, Bienz discloses that the speed switch is an on/off switch, and therefore, the electrical circuit connecting the motors and battery assembly is either open or closed. Accordingly, it follows that Bienz fails

to disclose any selective control of the rate at which the voltage is provided to the motors, much less the rate at which the vehicle achieves a selected speed configuration. For at least these reasons, Applicants request that the rejection of original claim 5 (now amended claim 1) be reconsidered and withdrawn.

As a further distinction to the electronic speed controller of Bienz, the rejected claims are directed to an electronic speed controller whose operation is at least partially responsive to the selection of a rotational input by a child sitting on the seat of the ride-on vehicle. In contrast to this rider-interactive speed controller, Bienz discloses a speed controller that is specifically designed to not be accessible or otherwise actuated by a child operating the vehicle. For example, on column 3, lines 47-52 Bienz specifically distinguishes the electronic speed controller's switch from switches that are designed and/or positioned for actuation by a child operating the vehicle (such as on/off and direction switches). On line 52 of column 3, Bienz states that the electronic speed controller is designed to be operated "only by an adult," and on lines 53-55, Bienz discloses that the electronic speed controller includes a tamper-resistant mechanism "to prevent the rider from inappropriately altering the maximum speed selection." Furthermore, on lines 28-30 of column 4, Bienz states that the switch of the speed controller is designed for operation only by an adult and therefore may include any cover that is operable only by an adult. Accordingly, this is an additional reason why amended claim 1 is believed to patentably distinguish Bienz.

In view of the above, Applicants request that the rejection of original claim 5 (and amended claim 1) be withdrawn. Claims 6-39 depend directly or indirectly from amended claim 1 and therefore should be allowed when amended claim 1 is allowed. In view of the above discussion of the several illustrative reasons why amended claim 1 patentably distinguishes Bienz, Applicants are not providing a detailed discussion of each of these dependent claims or presenting each additional reason why these claims patentably distinguish Bienz. However, Applicants want to briefly mention a few of these dependent claims and provide a few additional reasons why these claims should be allowed.

For example, claims 10-18 and 20-21 were previously indicated to be allowable and recite subject matter that does not require that the electronic speed controller regulate a specific one of timing or the rate at which the selected rotational input is transmitted to the driven wheel assembly. Accordingly, Applicants submit that the amendment of claim 1 to recite that the speed controller is adapted to regulate the rate at which the selected rotational input is transmitted does not affect the allowability of these claims. Similarly, claims 25-27 are directed to the selective regulating of the timing of the transmission of the selected rotational input and were previously indicated to be allowable. Therefore, the recitation of this subject matter in combination with the selective regulation of the rate at which the selected rotational input is transmitted should not affect the allowability of these claims. As another example, claims 7-9 and 29-32 are

directed to selective regulation of the rate at which the selected rotational input is transmitted to the driven wheel assembly and were indicated to be allowable in the first Office action. Therefore, Applicants submit that the amendment of claim 1 to recite that the electronic speed controller selectively regulates the rate at which the selected rotational input is transmitted to the driven wheel assembly should not affect the allowability of these claims.

Claim 6 depends from claim 1 and recites that the electronic speed controller is adapted to regulate the rate at which the selected rotational input is transmitted to the driven wheel assembly according to a predetermined transmission profile in which the selected rotational input is incrementally transmitted to the driven wheel assembly. Applicants request reconsideration of the rejection of claim 6 because Bienz does not disclose or suggest an electronic speed control that is adapted to incrementally transmit the selected rotational input to the driven wheel assembly, much less an electronic speed controller that selectively and incrementally transmits this rotational input according to a predetermined transmission profile. Applicants submit that the rejection of claim 6 was an inadvertent typographical error, as the Examiner indicated that claim 29, which recites similar subject matter, is allowable and specifically states on page 3 of the Office action that the prior art does not teach a ride-on with a speed controller that regulates the rate at which a selected rotational input is transmitted to the vehicle's driven wheels based on a transmission profile in which

the selected rotational input is incrementally transmitted to the driven wheels. Accordingly, Applicants request withdrawal of the rejection of claim 6. Claims 7-9 depend from claim 6 and were previously indicated to be allowable.

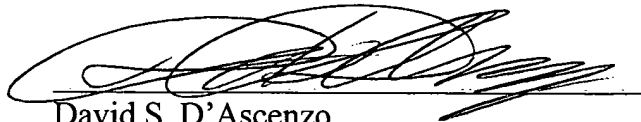
Amended claims 33 and 36 generally recite, amongst other subject matter, that the electronic speed controller is adapted to regulate the transmission of the selected rotational input responsive at least in part to one or more selected (claim 33) or actual (claim 36) characteristics of the vehicle's drive assembly that is selected or determined (respectively) during operation of the ride-on vehicle. As discussed, the electronic speed controller of Bienz is preset by an adult into one of three predetermined speed configurations and accordingly is not configured for adjustment or selective actuation during operation of the vehicle. In fact, the specific inclusion of a child-proof cover for the switch of Bienz demonstrates the "preset" nature of Bienz. Accordingly, Applicants request that the rejections of amended claims 33 and 36 be reconsidered and withdrawn.

With the entry of the above amendments, and for the reasons stated, Applicants submit that all of the issues raised in the Office action have been addressed. If the Examiner has any questions or if there are any remaining issues, Applicants' undersigned attorney may be reached at the number listed below. Similarly, if the Examiner believes that a telephone interview would be helpful to

advance prosecution of the application, the Examiner is invited to contact Applicants' undersigned attorney at the number listed below.

Respectfully submitted,

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